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RUEHLO/AMEMBASSY LONDON 1378
RUEHKO/AMEMBASSY TOKYO 9484
RUEHWL/AMEMBASSY WELLINGTON 1795
RUEHCHI/AMCONSUL CHIANG MAI 3815
RHEFDIA/DIA WASHDC
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C O N F I D E N T I A L SECTION 01 OF 02 BANGKOK 003764

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E.O. 12958: DECL: 07/09/2017

TAGS: [PGOV](#) [PHUM](#) [ECON](#) [EINV](#) [KDEM](#) [KJUS](#) [TH](#)

SUBJECT: CNS LEGAL ADVISOR DISCUSSES CONSTITUTION, POLITICS

REF: A. BANGKOK 3530 (THAKSIN TO REMAIN ABROAD)

[1](#)B. BANGKOK 3528 (ACTIVISTS AGAINST ISA)

[1](#)C. BANGKOK 2071 (FBA SENT TO LEGISLATURE)

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Classified By: Ambassador Ralph L. Boyce, reason 1.4 (b) and (d).

SUMMARY

[1](#)1. (C) A leading jurist told the Ambassador that the constitution appeared likely to pass in the upcoming referendum, despite efforts to mobilize opposition by associates of deposed Prime Minister Thaksin Shinawatra. During a July 6 dinner in honor of visiting Senator Webb, leading legislator Borwornsak Uwanno said he favored the charter's strong guarantees for civil rights but felt uncomfortable with the enhanced role it provided the judiciary. Borwornsak also predicted that the legislature would allow criticism of the constitution in advance of the referendum and fail to move ahead with Foreign Business Act amendments. He said he felt the time was not right for passage of the Internal Security Act, but he did not predict whether the bill would pass or stall. End Summary.

CONSTITUTION

[1](#)2. (SBU) Thai Deputy Foreign Minister Sawanit Kongsiri on July 6 hosted a large dinner (approximately 100 guests) in honor of visiting Senator Jim Webb. This event provided an opportunity for the Ambassador to discuss the political situation with Borwornsak Uwanno, an eminent jurist currently serving in the National Legislative Assembly (NLA) who has close ties to the Council for National Security (CNS). Earlier in the day, the Constitution Drafting Assembly (CDA) voted unanimously to approve a revised draft constitution, finalizing the document and officially setting August 19 as the date for the national referendum.

[1](#)3. (C) Borwornsak told the Ambassador he had mixed views of the draft charter. His overall sentiment was positive; he supported the document's stronger guarantees of civil rights and provisions which made it easier for the citizenry to petition the courts or legislature. However, he felt the

constitution would, by design, ensure weak coalition governments. Consisting of over 300 articles, the charter also tended to micromanage certain governmental processes.

¶4. (C) Borwornsak also seemed uncomfortable with the ways in which the constitution would enhance the powers of the judiciary. The document:

- Allows the courts to initiate laws;
- Provides that figures from the judiciary will hold three of the seven positions empowered to select and appoint Senators (74 of the 150 Senators will be appointed, while 76 will be elected); and
- Empowers judicial officials also to select Ombudsmen and members of the Election Commission, National Counter Corruption Commission, State Audit Commission, and Human Rights Commission.

REFERENDUM

¶5. (C) Figures from the former Thai Rak Thai party (TRT) had not only declared their opposition to the new constitution, Borwornsak noted, but they also were actively promoting a vote against it in the upcoming referendum. He cited former TRT Deputy Leader Sudarat Keyuraphan, who has recently taken on a leading role in the group of former TRT figures, but also Thaksin-era Tourism and Sports Minister Pracha Maleenont, whom Borwornsak believed was channeling money from Thaksin to build an upcountry movement against the constitution. (Borwornsak predicted that Thaksin himself would remain abroad for an extended period of time, consistent with Thaksin's lawyer's advice -- ref A.)

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¶6. (C) The Ambassador expressed concern about reports that the NLA would outlaw criticism of the constitution in the period leading up to the referendum. Borwornsak assured the Ambassador that the Referendum Act (currently under debate) would allow people to air views about both the pros and cons of the charter. He predicted the constitution would pass in the referendum, despite TRT efforts against it.

INTERNAL SECURITY ACT

¶7. (C) The Ambassador asked Borwornsak's views of the draft Internal Security Act (ref B). Borwornsak indicated he disapproved of the effort to pass an ISA at this time; such a law should be approved by an elected administration rather than an interim one, he said. He told the Ambassador that he (Borwornsak) had conveyed his opposition to the ISA to leading CNS strategist General Winai Phattiyakul. The Ambassador took the occasion to debunk the common belief that the draft ISA's provisions resembled those currently in U.S. law; the U.S. military had none of the law enforcement powers that the ISA would provide with Thai Army.

FOREIGN BUSINESS ACT

¶8. (C) The Ambassador also expressed concern about pending amendments to the Foreign Business Act (ref C). Borwornsak predicted this legislation would fail to advance in the NLA. He reassured the Ambassador that few American firms would be affected by the law. The Ambassador stressed concern for those U.S. companies that would be affected, and he also cited the negative impact these amendments would likely have on the overall investment climate.

COMMENT

¶9. (C) Borwornsak's reservations about the constitution's provisions are not uncommon. The CDA sought to empower the judiciary and promote weak coalition governments in order to provide additional checks against the possible rise of an autocratic Prime Minister. We will provide further analysis of the constitution's provisions after obtaining an English copy of the final draft.
BOYCE